



August 8, 2001

VIA ELECTRONIC FILING

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TWB204
Washington, D.C. 20554

Re: Notice of Ex Parte Meeting in CC Docket 01-117

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned proceeding of an ex parte meeting. On August 7, 2001, the undersigned on behalf of Focal Communications Corporation met with Michelle Carey, and Cathy Carpino of the Common Carrier Bureau. At the meeting we discussed Mpower's Forbearance Petition and the harm "FLEX contracts" could have on the CLEC community.

Very truly yours,

/s/ Pamela S. Arluk

Pamela S. Arluk
Senior Counsel
Focal Communications Corporation
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cc: Michelle Carey
Cathy Carpino

MPOWER FORBEARANCE PETITION

- ☐ Mpower's Petition assumes a competitive environment that does not exist. CLECs have no choice but to obtain interconnection agreements with the ILECs. As shown from the ILEC's comments, they prefer to not have interconnection with the CLECs.
- ☐ If FLEX contracts are permitted, standard interconnection agreements will begin to disappear until they are no longer available. This is because the CLEC negotiating the FLEX contract will have no incentive to ensure that the contract is available for other CLECs to opt into.
- ☐ If FLEX contracts become the vehicle available for CLECs, the ability to opt into agreements will also begin to disappear. ILECs will structure the agreements specifically for each individual CLEC, including "poison pills" to preclude other CLECs from opting into the agreement. Without "pick and choose" available under the FLEX contracts, CLECs will be forced to negotiate each new agreement from scratch.
- ☐ Mpower's proposal will require CLECs to expend additional resources and further drain capital by having to negotiate in every jurisdiction. The ability to opt into agreements is essential to competition.
- ☐ The Commission should dismiss Mpower's Petition and refrain from adopting a rulemaking.